



CHILD AND PROTECTED ADULT PROTECTION POLICY

Child and Protected Adult Protection Policy

PROTECTED ADULT – Definition

Section 94 of the Protection of Protected Groups Scotland Act 2007 defines “Protected Adults” as individuals, aged 16 years or over who are provided with (and thus receive) a type of care, support or welfare service. (Page 33, paragraph 18 of Protecting Vulnerable Groups (PVG) Guidance)

Our service users, who are protected adults, are therefore entitled to protection against abuse, including all forms of harm or exploitation.

The Trust is committed to protecting our service users against all forms of abuse. Employees of the Trust have a responsibility toward those service users who are protected adults, to ensure that, they are protected from abuse.

Abuse is a violation of an individual’s human and civil rights by another person and may consist of a single act or multiple acts. As well as physical and psychological abuse, acts of neglect or an omission to act may amount to abuse. Abuse may also occur when a protected adult is persuaded to enter into a financial or sexual transaction to which he or she has not consented or cannot consent.

When dealing with our service users, employees must remain vigilant at all times of the risk to our service users of abusive behaviour from different sources including members of the service users family, other service users, employees and in different situations.

If an employee believes a service user has been subjected to abuse, he or she should refer the circumstances to his or her line manager (or another manager if appropriate), in accordance with the Trust’s Public Interest Disclosure Policy and Procedure (“Whistleblowing”) for full investigation.

If the alleged perpetrator of abuse is another employee, the circumstances will be investigated fully under the Trust’s Disciplinary Procedure. If necessary, the Trust will refer details of the circumstances to the Protection Unit within Disclosure Scotland so that details of the alleged perpetrator may be considered for Listing added on a provisional basis to the POVA list, pending the outcome of disciplinary procedures. Upon full investigation, should the allegations be shown to be clearly groundless, the Trust will take action promptly to have the employee’s name removed from provisional POVA listing.

If, following full investigation of the circumstances, the Trust determines that the perpetrator should be dismissed from the Trust, the employee’s details will be referred for inclusion on the DS Barred list.

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19 Jan 2015

Introduction

One of the principal roles the Trust has within the region is to provide sport and leisure opportunities to the local community. The facilities that we provide and the activities that we manage can have a hugely influential role in the development of young people and protected adults.

It is essential within the environment that we operate, that we provide full and diligent care to all of our customers whether they are partaking in casual or organised activity. To meet this obligation it is fundamental to recognise the reality that, unfortunately, abuse happens in sport and leisure. This policy is written to enable all employees to recognise and manage all form of abuse which may be conducted against children and / or protected adults in our facilities.

The Trustees and Management of Live Borders is fully and wholly committed to the protection of children and protected adults through the adoption and implementation of this policy and associated procedures.

A handwritten signature in black ink, appearing to be 'Ewan Jackson', written over a horizontal line.

Ewan Jackson
Chief Executive Officer
Live Borders

Dated 15th January 2016

Section One: Policy

1.1 Statement

Every child and protected adult has the right to participate in sport without fear of physical, emotional or sexual abuse, or neglect. The organisation is committed to ensuring every child and protected adult in their care has a positive experience in sport and has the freedom to participate to their full potential. All staff, coaches, assistant coaches and helpers will be trained and supported to ensure the protection of children and protected adults.

1.2 Responsibilities

- Promote the health and welfare of children and protected adults by providing opportunities for them to take part in sport safely.
- Respect and promote the rights, wishes and feelings of children and protected adults.
- Promote and implement appropriate procedures to safeguard children and protected adults and protect them from abuse.
- Recruit and train staff to ensure the Policy and its procedures are adhered to.
- Encourage best practice when working with children and protected adults, in order to ensure the best possible protection from abuse and to minimise the risk of accusation against staff and/or the organisation.
- Respond to any allegations of abuse or staff misconduct according to the procedures set out within this Policy, as well as implementing, where appropriate, the relevant disciplinary and appeals procedure.
- Review and evaluate this Policy and these procedures on a regular basis.

Key Responsibilities

This policy recognises that everyone has a duty of care towards children and protected adults to help protect them from abuse. The Chief Executive Officer has the main responsibility for managing child and protected adult issues within the Trust.

Roles and Responsibilities of the CEO of Live Borders.

The CEO will:

- Implement and promote the Trusts child and protected adult protection policy and procedure.
- Act as the main contact within the trust for the protection of children and protected adults
- Provide information and advice on the protection of children and protected adults
- Establish and raise awareness on the protection of children and protected adults
- Encourage good practice and support of procedures to protect children and protected adults
- Establish and maintain contact with local statutory agencies including the police and social work department
- Organise training for employees and contracted service providers.
- Monitor and review the Child and Protected adult protection policy and procedures

Roles and Responsibilities of Area Managers employed by the Live Borders

Area Managers will:

- Report to the Senior Management Team on the protection of children and protected adults as and when required.
- Ensure that all staff understand, are trained in and sign up to the policy
- Encourage good practice and support of child and protected adult protection procedures
- Act as the main contact, within the facilities that they manage, for the protection of children and protected adults
- Provide information and advice on the protection of children and protected adults
- Establish and raise awareness on the protection of children and protected adults
- Ensure that the policy is communicated to all new staff and signed up to at Induction stage
- Monitor, review and if appropriate make recommendations to the CEO on a regular basis.

1.3 Principles

- The Policy is based upon the following principles:
- The welfare of children and protected adults is the primary concern.
- All children and protected adults, whatever their age, culture, disability, gender, language, racial origin, socio-economic status, religious belief and/or sexual identity have the right to protection from abuse.
- It is a shared responsibility to report concerns about abuse and the responsibility of the Social Work department and the Police to conduct, where appropriate, a joint investigation.
- All incidents of alleged poor practice, misconduct and abuse will be taken seriously and responded to in the appropriate manner.
- All personal information will be held in accordance with the requirements of the Data Protection Act 1998.

1.4 Review

The organisation will monitor and review the policy and procedures on a regular basis:

- In accordance with any changes in the legislation concerning the protection of children and protected adults.
- Following any issues or concerns about the protection of children or protected adults within the Trust.
- In all other circumstances, the Policy will be reviewed annually.

Section Two: Definition of Terms

2.1 'Child'

Section 97 of The PVG (S) Act 2007 defines a child as an individual aged under eighteen years of age.

2.2 'Protected Adult'

Section 94 of the Protection of Protected Groups Scotland) Act 2007 defines "Protected Adults" as individuals, aged 16 years or over who are provided with (and thus receive) a type of care, support or welfare service. (Page 33, paragraph 18 of PVG Guidance)

2.3 'Abuse'

The term is used to cover six types of behaviour:

- **Emotional Abuse** '...the persistent emotional ill-treatment of a child or protected adult such as to cause severe and adverse effects on their emotional development'
- **Negative Discrimination** - 'Children or protected adults may experience harassment or unwanted attention because of their race or ethnic origin, socio-economic status, culture, age, disability, gender, sexuality or religious beliefs'
- **Physical Abuse** - '...may involve the actual or attempted physical injury to a child or protected adult...may also be a deliberate act, omission or failure to protect'
- **Sexual Abuse** - '...forcing or enticing a child or protected adult to take part in sexual activities whether or not they are aware of, or consent to, what is happening...may include non-contact activities such as forcing children or protected adults to look at or be involved in the production of pornographic material, to watch sexual activities or encouraging them to behave in sexually inappropriate ways'
- **Neglect** - '...the persistent failure to meet a child or protected adult's basic physical and/or psychological needs'
- **Bullying** - '...particularly hurtful behaviour usually repeated over a period of time, where it is difficult for those being bullied to defend themselves'

Section Three: Procedures

3.1 *Recruitment and Employment*

Live Borders will ensure all reasonable steps are taken to prevent unsuitable persons from working with children and protected adults. For all positions that require contact with children or protected adults the following recruitment procedures will be adhered to.

2.1.1 Advertising - All forms of advertising used to recruit persons for positions involving regular contact with children or protected adults will include the following:

- The aim of the organisation's sports programme and, where appropriate, details of the programme content.
- The responsibilities of the role.
- The level of qualification and/or experience required.
- Details of the requirement for a PVG Scheme record application/ check/ Disclosure Scotland check as appropriate.

3.1.2 Pre-application Information - Information for positions involving contact with children or protected adults will be sent to all applicants and will include:

- A job description including roles and responsibilities.
- A candidate specification stating essential and desirable criteria for applications.
- A job application form.
- Information on Live Borders and its' programmes.

3.1.3 References - References will be sought as required. Where possible, at least one of these references will be from an employer or a voluntary organisation where the applicant's position required working with children or protected adults, in any of the following capacities: employee, volunteer, student placement or work experience. If the person has no previous experience of working with children or protected adults, specific training requirements may be agreed before an appointment is made.

3.1.4 Protecting Vulnerable Group Records/ Disclosure Checks - The organisation is registered with Disclosure Scotland and prior to appointment a Disclosure check or a PVG Scheme Record Membership/ Record Update and/or equivalent international check will be completed. This will require the prospective position holder to complete and submit a PVG Scheme Record/ Disclosure Scotland form, with the results returning to Personnel, Live Borders, Head Office.

PVG Scheme Record is designed for use by organisations when asking an individual who does, or is being recruited to do, regulated work for them to join the PVG Scheme for the first time (or where a Scheme Record Update reveals a change to vetting information).

PVG Scheme Record Update is designed for use by organisations when asking an individual who is already a PVG Scheme member is asked (and who already had a Scheme Record issued in the past) to do regulated work for them.

Basic Disclosure will be requested for positions that are classified as non-regulated work. (Definitions of Regulated and Non-Regulated work can be found within the PVG Guidance Booklet – Chapter 2. Download at www.disclosurescotland.co.uk)

3.1.5 Overseas Applicants

Applicants from overseas will be requested to provide a police check from their relevant country and where appropriate, the following information:

- A statement from the governing body in the country of origin of the applicant and/or the country from which they are transferring in regard to their participation and suitability for the position.
- A statement from the international federation of the sport in regard to their participation and suitability for the position.
- Any information that may be provided in addition to/replacement of a police check from the applicant's country.

3.1.6 Induction

The induction process for the newly appointed individual will include the following:

- Explanation of Live Borders structure, facilities and line management.
- Payment process and claims.
- Risk Assessments of facilities, equipment, environment and activities.
- Emergency Action Plans and Normal Operating Procedures.
- Training in Live Borders Protection Policy and Procedures.
- Clarification of roles, responsibilities and expectations.
- Professional Development for sports coaches.
- Code of conduct for sports coaches (Sportscoach UK)
- Disciplinary, grievance and appeals procedures.

3.2 Code of Conduct

When in contact with children or protected adults, the organisation requires all coaches, assistant coaches and helpers to abide by the behaviours and practice recommended by the Sportscoach UK Code of Conduct for coaches.

It may sometimes be necessary for employees to conduct duties of a personal nature for children or protected adults, particularly if they are very young, incapable or protected. These tasks should only be carried out with the full understanding and consent of the child or protected adult and where possible, the consent of the parents/guardians/carers. 19 Jan 2015

Some activities may include manual handling and lifting. In order to safeguard the participant, the employee and the organisation, these duties should not be carried out unless appropriate training has been received and the employee is confident that there is no risk to any party. Further clarification of responsibilities and the relevant training needs of a position, can be obtained from the line manager.

Good Practice that can help to prevent child abuse

- Avoid situations where teacher/coach/club official/staff and child are alone
- Ascertain the child's and the parent/carers views about manual support for children who need this kind of help particularly when they are in the water.
- If it is necessary to do things of a personal nature for children who are young or disabled, make sure you have another adult with you. Get the child's consent if possible and certainly get consent from the parent/carer. Let the child know what you are doing and why.
- Ask parents/carers or nominated officials to be responsible for children in the changing rooms.
- Get teacher/coach/club official/staff to work in pairs if classes or groups of children have to be supervised in the changing rooms.
- Ensure that male and female teacher/coach/club official/staff always act with mixed teams.
- Don't allow any physically rough or sexually provocative games, or inappropriate talking or touching by anyone, in any group for which you have responsibility.
- In competitions/events, look out for people who don't appear to be relatives or friends of children who are participating but, nevertheless seem to spend a lot of time videotaping or photographing them. Report these incidents to the organisers immediately.

3.3 Good Practice when Identifying Bullying

The lives of many people are made miserable by bullying. Victims of bullying can feel lonely, isolated and deeply unhappy. It can have a devastating effect on a child or protected adult's self-esteem and destroy their self-confidence and concentration. They may become withdrawn and insecure, more cautious and less willing to participate to their full potential.

To ensure Live Borders creates an atmosphere where bullying of children and protected adults is unacceptable and to help employees manage bullying issues, guidelines for identifying and managing bullying have been developed.

Any suspicions or allegations of bullying of a child or protected adult against a member of staff will be dealt with through Live Borders Disciplinary Procedures

3.3.1 Identifying Bullying

In some cases of abuse it may not be an adult abusing a young person or protected adult. Children and young people may also be responsible for abuse, for example, in the case of bullying. Bullying may be seen as particularly hurtful behaviour usually repeated over a period of time, where it is difficult for those being bullied to defend themselves. Bullying can take many forms including:

- Physical e.g. hitting, kicking, theft
- Verbal (including teasing) e.g. racist remarks, spreading rumours, threats or name-calling
- Emotional e.g. isolating a child or protected adult from the activities or social acceptance of the peer group

- Harassment e.g. using abusive or insulting behaviour in a manner intended to cause alarm or distress
- Children and protected adults may be bullied by adults, their peers and in some cases by their families

Managing Bullying - Prevention of Bullying and Action to help the Victim(s)

- Take all signs of bullying seriously
- Encourage all children to speak out and share their concerns
- Take all allegations of bullying seriously and take action to ensure the victim(s) is safe.
- Speak with the bully (ies) and victim (s) separately
- Reassure the victim that you can be trusted and will help them, however you should not promise to keep secrets.
- Keep records of what is said (who, what, when)
- Report any concerns to the person in charge at the organisation where the bullying is occurring.

Action toward the Bully (ies)

- Talk with the bully. Explain the situation and try to get the bully (ies) to understand the consequences of their behaviour.
- Seek an apology from the bully to the victim.
- Inform their parents/guardians/carers
- Impose sanctions as necessary
- Encourage and support the bully (ies) to change their behaviour
- Keep a written record of action taken

3.4 Photography, Video and Filming of Children and Protected Adults

3.4.1 Arrangements for use of Photographic/Film/Video Equipment at Activities or Events

Sporting activities and events may be used to take inappropriate photographs or film footage of children and protected adults. The following procedures have been developed to protect children and protected adults:

- All materials promoting Live Borders activities or events shall state that accredited photographers will be present.
- Parents/guardians/carers will be informed of the presence of an accredited photographer and will have the opportunity to object to any filming/photography of their child/dependent.
- Anyone wishing to use photographic/film/video equipment at a venue must obtain the approval of Live Borders. Parents/guardians/carers will be informed of these arrangements prior to the activity or event, usually through the application and/or selection procedure.
- An activity or event specific identification badge/sticker must be provided for accredited photographers, film and video operators and should be clearly displayed at all times whilst in attendance at the activity or event.
- No unsupervised access or one-to-one sessions will be permitted unless prior approval has been sought from Live Borders, the child or protected adult involved and the parent/guardian/carer.
- Live Borders reserves the right at all times to prohibit the use of photography, film or video at any event or activity with which it is associated.
- The requirements above are publicly promoted to ensure all those at the activity or event understand the procedure and aware of whom to contact with any concerns.

3.4.2 Concerns about Photographers, Video or Film Operators

Any concerns with photographers, video or film operators are to be reported to the Scottish Borders Council Social Work Department and/or the Police.

3.4.3 Photographs of Children or Protected Adults in Publications and on the Internet

Sports websites and publications provide excellent opportunities to broadcast achievements of individuals to the world and to provide a showcase for the activities of young people or protected adults. However, in some cases displaying information about children and protected adults could place them at risk.

Our publications and information on the Internet adheres to the following:

- Publications or information on a website should not include personal information that could identify a child or protected adult, for example, home address, email address, address or telephone number.
- Written consent should be obtained from the child or protected adult's parent/guardian/carer before publishing photographs or using film footage. Parents/guardians/carers must be informed of any changes in the use of the material and consent given to the changes.
- The content of the photographs or film footage should not depict provocative poses or those in a partial state of undress (other than that appropriate to the sport).
- For photographs or videos of groups/teams of children or protected adults, ensure that only the group or team is referred to, not individual members. Credits for achievements or protected adult should be restricted to first names only.
- Particular care must be taken to ensure no photographs of children or protected adults involved in child protection investigations or custody disputes are used.

Any concerns with publications or web site content material should be reported to us.

3.5 *Disclosures by Children or Protected Adults*

3.5.1 Types of Disclosure - Information you receive about or from a child or protected adult may fall into one of the following categories:

- Suspicion or allegation of misconduct against a member of Live Borders staff.
- Suspicion or allegation of abuse against a member of Live Borders staff.
- Suspicion or allegation of inappropriate behaviour against someone external to Live Borders.
- Suspicion or allegation of abuse against someone external to Live Borders.

Please note: It is not the responsibility of any member of Live Borders staff to decide whether or not an abuse has taken place. However, it is their responsibility to report any concerns or allegations to the Police and/or the SBC Social Work department

3.5.2 How to Listen to a Disclosure - It is important to listen carefully to the information a child or protected adult discloses. When listening to a disclosure, the following good practice is recommended:

- React calmly so as not to frighten the child/protected adult.
- Take the disclosure seriously. Listen carefully and quietly.
- Tell the child/protected adult that they are not to blame and that they were right to tell.

- Recognise the difficulties inherent in interpreting what a child or protected adult says, especially those who may have speech impairment and/or differences in language.
- If you need to clarify, keep questions to a minimum and do not attempt to re-phrase, summarise or ask leading questions.
- Reassure the child but do not make promises of confidentiality: explain that you may need to tell someone if you are to help them.

3.5.3 Actions to Avoid whilst Listening to a Disclosure

- Try not to panic, show shock or distaste.
- Avoid probing for more information than is offered. Avoid speculating and making assumptions.
- Do not make negative comments about the person against whom the allegation has been made.
- Under no circumstances should you approach the individual against whom the allegation has been made.
- Do not introduce personal information from either your own experiences or those of other children or protected adults.

3.6 Reporting Concerns or Allegations

All allegations of abuse must be taken seriously. Although false allegations of abuse do occur, they are less than usual. Live Borders recommends that coaching staff react as soon as possible in all circumstances. As stated in Section 3.5.1 Responding to Disclosures, 'It is not the responsibility of any member of Live Borders staff to decide whether or not an abuse has taken place. However, it is their responsibility to report any concerns or allegations to the Police and/or the SBC Social Work department'. (See also PVG Guidance, Chapter 6 – Referrals by Organisations)

POLICE – All referrals

Police Scotland	01450 375 051
Divisional HQ	(24 hours)
Wilton Hill	
HAWICK	

SOCIAL WORK – All referrals during office hours must be made in the child's home area.

SBC Social Work	SBC Social Work	SBC Social Work
4-6 Newtown Street	4 Abbotsford Road	Town Hall 34-42 High Street
DUNS	GALASHIELS	HAWICK
01361 886103	01896 664157	01450 374 545

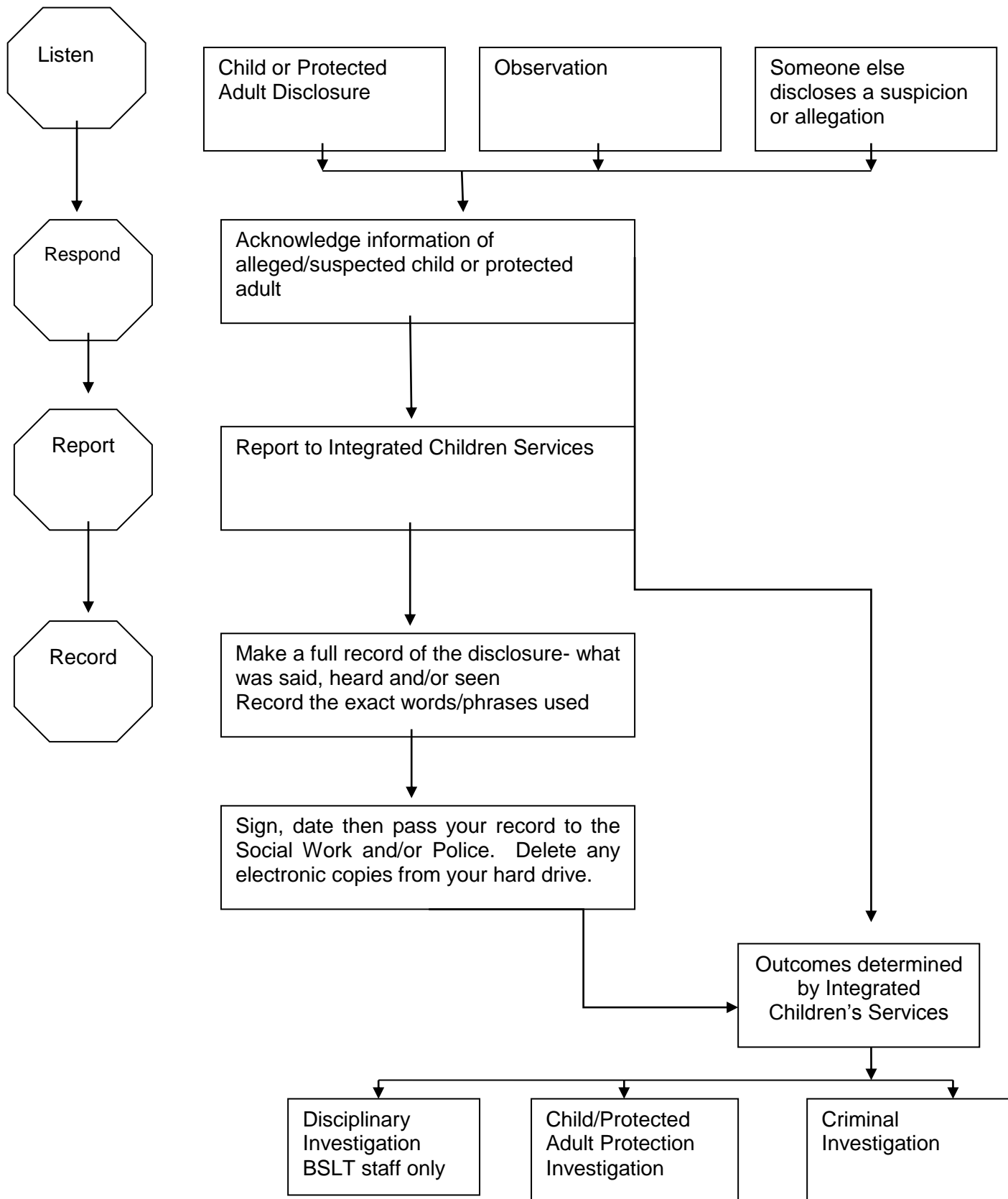
SBC Social Work	SBC Social Work
Rosetta Road	Rose Lane
PEEBLES	KELSO
01721 726355	01573 825087

SOCIAL WORK – Out-with office hours, all referrals to Bordercare Duty Social Worker - 01896 752 111

3.6.1 Recording - On receiving information that leads to a suspicion or allegation of abuse, it is essential that important information be recorded as soon as possible after the disclosure. The report can then be forwarded to the Police or Social Work department to assist them with their investigation. A full written record should include the following (if available):

- Name of child/protected adult
- Age, date of birth of child/protected adult
- Home address, telephone number of child/protected adult
- Date, time and location of disclosure
- Setting for disclosure for example, a swimming lesson.
- The nature of the allegation in the child/protected adult's own words
- A description of any injuries or bruising, visible when the child is dressed as usual –
NOTE – Do not attempt to examine the child.
- Details of any witnesses to the incident, as described by the child/protected adult.
- Details of any other persons that the child/protected adult may have reported the incident to.
- Whether the person making the report is expressing their own concerns or the concerns of another person.
- Details of anyone else that may have been contacted regards the correct procedure for reporting disclosures for example, the Area Manager.

3.6.2 Responding to Disclosures – Flowchart Procedure for Responding to Suspicions and/or Allegations of Abuse of a Child or Protected Adult



3.6.3 Whistleblowing – Allegations against staff/volunteers

Every member of staff is responsible for the welfare of each child in their care and for making others aware of their responsibilities (e.g. volunteers helping out with trips, tours or social events). However, child abuse can and does occur outside the family setting, and it has occurred in sport.

Hearing allegations of child abuse against coaches, members of staff or volunteers is particularly distressing. It can raise feelings of anger because the children have placed their trust in adults who have abused that trust, and guilt on the part of other colleagues who may feel they could have done more to stop it happening.

Reporting suspicions, allegations or incidents of abuse against a colleague is equally distressing. If you are concerned about the behaviour of a member of staff within the trust the following diagram offers some general guidelines on how to respond to any concerns you may have.

Does the behaviour of a member of staff or volunteer constitute poor practice/ or an alleged breach of code of conduct?

YES

Could it also constitute child abuse?

YES

If concerns remain, refer to the Child Protection Officer at the local authority and national governing body, who will consult the disciplinary Committee and decide how to handle the issue.

National governing body or organisational investigation.

Report concerns to the person in charge (unless concerns relate to them – see below) who must then:

- Ensure the safety of the child and other children
- Refer concerns to the social services (who may involve the police)
- Inform the local authority and national governing body Child Protection Officers.

If the allegation/concern relates to the person in charge, refer directly to the Child Protection Officer at the local authority and national governing body, who must then refer concerns to the social services (who may involve the police).

<p>Possible Outcomes of Hearing:</p> <ul style="list-style-type: none"> • No case to answer • Warrants advice/warning as to future conduct/sanctions • Further training and support needed 	<p>Possible Outcomes:</p> <ul style="list-style-type: none"> • Police inquiry • Criminal proceedings • Referral back to local authority/national governing body for disciplinary proceedings • Possible civil proceedings
<p style="text-align: center;">Appeals</p> <p>Appeals procedures should be available to anyone under investigation as part of natural justice.</p>	

If you do not know who to turn to for advice or are worried about sharing your concerns with a senior colleague, contact social services directly (or the NSPCC on 0808-800 5000 or Childline on 0800-1111).

Section Four: Guidance

Section 5 of the Children (Scotland) Act 1995 creates a statutory duty to report any suspicions of child abuse i.e. a duty to do what is reasonable in all circumstances to safeguard the child's health, development and welfare. Failure to report concerns, turning a blind eye or failing to protect a child or protected adult, may result in legal action.

4.1 *Defamation*

Concerned adults may be reluctant to report suspicions of abuse for fear that the person suspected will sue them for defamation. An allegation of abuse will always be defamatory but damages will not be awarded if the maker of the allegation can prove that it is true. Such allegations should not be made unless the maker of the allegation has a legal duty to make it and the Receiver has a legal duty to receive it. Thus a person may safely express concerns to, for example, the Police, a member of the Social Work department, the designated Child and Protected Adult Officer (if in place) or the line manager of the sport's National Governing Body. Similar reciprocal duties exist between an employee and his/her employer or his/her employer's representative. The formation of untrue allegations for malicious reasons will always be actionable.

4.2 *Confidentiality*

Those receiving information about possible abuse should always treat that information as confidential. It must not be disclosed to any persons except those having a legal duty to receive it, for example, the Police or a Social Work reporter, or the line manager of the sport's National Governing Body. Communicating Information obtained from a Disclosure Certificate is a criminal offence under the Police Act 1997.

4.3 *Legal Framework*

Borders Sport and Leisure Trust's Child and Protected Adult Protection Policy and supporting Procedures, are based on the following legislation and guidance:

- Children (Scotland) Act 1995
- Human Rights Act 1998
- Rehabilitation of Offenders Act 1974
- Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975
- Criminal Procedure (Scotland) Act 1995
- Protecting Children 'A Code of Practice for Voluntary Organisations in Scotland Working with Children and Young People' 1995
- Sex Offenders Act 1997

- Sexual Offences (Amendments) Act 2000
- Data Protection Act 1998
- Police Act 1997
- Disclosure Scotland Code of Conduct 'Making Scotland Safer' (2002)
- Disclosure Scotland Code of Conduct 'Protecting the Vulnerable by Safer Recruitment' (2002)
- Protecting Children – A Shared Responsibility: Guidance on inter-agency co-operation, The Scottish Office 1998
- UN Convention of the Rights of the Child 1992

4.4 *Guidance on PVG Scheme Records/ Disclosure Scotland Checks*

Recent changes in the law have enhanced the means by which employers and organisations can take steps to ensure that people who work with children and protected adults are suitable for such positions.

The following provides answers to frequently asked questions.

Borders Sport and Leisure Trust
19 Jan 2015

Do I have to employ people with previous convictions?

The Rehabilitation of Offenders Act 1974 clarifies that after a certain amount of time, a conviction will be regarded as 'spent'. This means that in certain circumstances, a potential employee does not have to declare this conviction.

NOTE: It is illegal to discriminate against someone on the grounds of a spent conviction.

Exceptions to this rule:

For certain kinds of employment, a prospective employer can ask you to declare all spent and unspent convictions. These are known as 'exempted' and are listed in the Rehabilitation of Offenders Act 1974 (ROA) (Exclusions & Exceptions) (Scotland) Order 2003. This includes nurses, teachers, firearms dealers, solicitors, positions which involve contact with children, the elderly and protected adults.

How can I ask people about their previous convictions?

For positions that involve contact with children and protected adults, applicants should be made aware that such positions are exempted i.e. applicants will be asked to declare all convictions. As part of the recruitment and selection procedures all members should complete an application form and on selection for a post, a PVG Scheme Membership should be applied for or a PVG Scheme Record update (if the individual is already a Scheme Member) check should be completed.

How can I get access to criminal records information?

Part V of the Police Act 1997 changed the procedures for checking criminal records. Organisations can apply for criminal records information to Disclosure Scotland. Disclosure Scotland began operating as part of the Scottish Criminal Records Office in Scotland on 29th April 2002.

Live Borders is registered with Disclosure Scotland and for positions involving contact with children and vulnerable groups all persons will be PVG Scheme checked.

How do I know which type of PVGS/ Disclosure check is required?

Employers and organisations must advise applicants of the level of Disclosure/ PVGS membership required. Details of the post must be provided in the Disclosure Scotland/ PVGS form.

NOTE: see 'section 3.1.4 Checks' for more information on the levels of Disclosure checks.

What happens to the PVGS Information/ Disclosure Certificate?

Live Borders follows the recommendations set by Disclosure Scotland and destroys the Disclosure certificate after a certain amount of time after the post has been appointed.

What if the information on the PVGS Record/ Certificate is incorrect?

Disclosure Scotland has an appeals procedure to challenge the accuracy of the information on the Certificate.

Section Five: Bibliography

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2. Model Policy and Procedures for Governing Bodies of Sport in Scotland
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5. Scottish Borders Child Protection Committee (2000) '*Inter-Agency Child Protection Guidelines*'
6. NSPCC (1998) 'Protecting Children – A guide for Sportspeople'
7. Perth & Kinross Council 'Safe & Sound Coaching in Perth & Kinross – A Club Guide'
8. ASA Child Protection Policy

Section Six:

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